

EXHIBIT 51

PUBLIC

1
2 H I G H L Y C O N F I D E N T I A L
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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5 UNITED STATES, et al.,

6 Plaintiffs,

7 vs.

Case No.

1:23-cv-000108

8 GOOGLE LLC,

9 Defendant.

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12 HIGHLY CONFIDENTIAL
13 REMOTE/ORAL/WEB VIDEOCONFERENCE
14 VIDEOTAPED DEPOSITION OF JAMES GLOGOVSKY
15 Friday, August 25, 2023
16 9:11 a.m.
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23 Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

24
25 Job No. CS6072653

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| <p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 August 25, 2023</p> <p>9 9:11 a.m.</p> <p>10</p> <p>11</p> <p>12 HIGHLY CONFIDENTIAL</p> <p>13 Remote/Oral/Web Videoconference</p> <p>14 Videotaped Deposition of JAMES</p> <p>15 GLOGOVSKY, held via Zoom Web</p> <p>16 Videoconference, pursuant to subpoena,</p> <p>17 before Jennifer Ocampo-Guzman, a</p> <p>18 Certified Realtime Shorthand Reporter</p> <p>19 and Notary Public of the State of New</p> <p>20 Jersey.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 4</p> <p>1</p> <p>2 APPEARANCES (Continued):</p> <p>3</p> <p>4 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP</p> <p>5 Attorneys for Defendant Google LLC</p> <p>6 1285 Avenue of the Americas</p> <p>7 New York, New York 10019</p> <p>8 BY: ERIN J. MORGAN, ESQ.</p> <p>9 ELIZABETH NORFORD, ESQ.</p> <p>10</p> <p>11</p> <p>12 THE NEW YORK TIMES</p> <p>13 Attorney for The New York Times and the</p> <p>14 Deponent</p> <p>15 620 Eighth Avenue</p> <p>16 New York, New York 10018</p> <p>17 BY: DEMETRI BLAISDELL, ESQ.</p> <p>18</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 MARC FRIEDMAN, Videographer</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p style="text-align: right;">Page 3</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>5 Attorneys for Plaintiff United States</p> <p>6 325 7th Street, Suite 300</p> <p>7 Washington, DC 20004</p> <p>8 BY: JEFFREY VERNON, ESQ.</p> <p>9 DIANA HENRY, ESQ.</p> <p>10 RACHEL HANSEN, ESQ.</p> <p>11 LEVI MARKS, ESQ.</p> <p>12</p> <p>13 NEW YORK STATE OFFICE OF THE ATTORNEY</p> <p>14 GENERAL</p> <p>15 Attorney for Plaintiff State of New York</p> <p>16 28 Liberty Street</p> <p>17 New York, New York 10005</p> <p>18 BY: MORGAN FEDER, ESQ.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 5</p> <p>1 HIGHLY CONFIDENTIAL</p> <p>2 THE VIDEOGRAPHER: Good morning.</p> <p>3 We are going on the record at 9:11 a.m.</p> <p>4 on Friday, August 25, 2023. Please note</p> <p>5 this deposition is being conducted</p> <p>6 virtually. Quality of recording depends</p> <p>7 on the quality of the camera and</p> <p>8 internet connection of all participants.</p> <p>9 What is heard from the witness and seen</p> <p>10 on screen is what will be recorded.</p> <p>11 Audio and video recording will continue</p> <p>12 to take place unless all parties agree</p> <p>13 to go off the record. This is media</p> <p>14 unit number 1 of the video-recorded</p> <p>15 deposition of James Glogovsky in the</p> <p>16 matter of United States, et al., versus</p> <p>17 Google LLC. This case is filed in the</p> <p>18 United States District Court, Eastern</p> <p>19 District of Virginia, Alexandria</p> <p>20 division, case number 1:23-CV-00108.</p> <p>21 My name is Marc Friedman. I'm the</p> <p>22 certified video legal specialist and</p> <p>23 your court reporter today is Jennifer</p> <p>24 Guzman and we are both from the firm of</p> <p>25 Veritext Legal Solutions. I'm not</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 through that, that's fine, if you want</p> <p>3 to not do that, that's also fine.</p> <p>4 MS. MORGAN: I mean I don't think</p> <p>5 that there is a foundation issue. If</p> <p>6 you want to explain your issue, I'm</p> <p>7 happy to try to cure it. I just don't</p> <p>8 understand what it is.</p> <p>9 MR. VERNON: Sure. I will try to</p> <p>10 be brief. So as I read the e-mail,</p> <p>11 Google conducted an experiment and so my</p> <p>12 objection, you know, it wasn't</p> <p>13 Mr. Glogovsky or The New York Times that</p> <p>14 conducted the experiment. So my</p> <p>15 objection in general, at least the</p> <p>16 foundation part of it before, was that</p> <p>17 you haven't shown to Mr. Glogovsky he</p> <p>18 knows about the reason why the</p> <p>19 experiment was conducted or how it was</p> <p>20 conducted or what it was shown, a lot of</p> <p>21 his answers were phrased as, you know,</p> <p>22 based on this e-mail, I think X, which</p> <p>23 suggested to me that he may not have</p> <p>24 been personally involved. Again, I'm</p> <p>25 happy -- you may be able to walk through</p> | <p style="text-align: right;">Page 140</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 A F T E R N O O N S E S S I O N</p> <p>3 (Time noted: 1:17 p.m.)</p> <p>4 THE VIDEOGRAPHER: The time is 1:17</p> <p>5 and we are back on the record.</p> <p>6 MS. MORGAN: I am going to reserve</p> <p>7 the rest of my time. So for now,</p> <p>8 Mr. Glogovsky, thank you, and I'm going</p> <p>9 to pass you to Mr. Vernon for continued</p> <p>10 questioning.</p> <p>11 MR. VERNON: Okay. Thank, you</p> <p>12 Mr. Glogovsky, for bearing with us.</p> <p>13 J A M E S G L O G O V S K Y, resumed.</p> <p>14 EXAMINATION BY</p> <p>15 MR. VERNON:</p> <p>16 Q. Let me first ask you about the</p> <p>17 publisher ad servers that The New York Times</p> <p>18 has used. Does that make sense?</p> <p>19 A. Yes.</p> <p>20 MS. MORGAN: Object to form.</p> <p>21 Q. Today, The New York Times uses DFP</p> <p>22 from Google as its publisher ad server; is</p> <p>23 that right?</p> <p>24 MS. MORGAN: Object to form.</p> <p>25 A. No, we use multiple ad servers</p> |
| <p style="text-align: right;">Page 139</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 it and show it, but that was the basis</p> <p>3 for the objection.</p> <p>4 MS. MORGAN: I guess we can go off</p> <p>5 the record and I can reread the record</p> <p>6 again and see if I agree with you. So</p> <p>7 let's do that.</p> <p>8 THE VIDEOGRAPHER: Standby, please.</p> <p>9 The time is 12:35. We are going off the</p> <p>10 record. One second.</p> <p>11 (Lunch recess taken at 12:35 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 141</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 across our overall business.</p> <p>3 Q. Today for display The New York</p> <p>4 Times uses Google's DFP as its publisher ad</p> <p>5 server; is that right?</p> <p>6 MS. MORGAN: Object to the form.</p> <p>7 A. Yes.</p> <p>8 Q. Prior to using DFP as The New York</p> <p>9 Times' publisher ad server, The New York</p> <p>10 Times used a publisher ad server that it had</p> <p>11 built and operated itself; is that right?</p> <p>12 MS. MORGAN: Object to the form,</p> <p>13 leading.</p> <p>14 A. Yes, that's correct.</p> <p>15 Q. I am going to reask.</p> <p>16 Before using DFP as its publisher</p> <p>17 ad server, what did The New York Times use as</p> <p>18 its publisher ad server?</p> <p>19 A. The New York Times used a</p> <p>20 proprietary ad server to fulfill our ads</p> <p>21 across our properties before Google Ad</p> <p>22 Manager or DFP.</p> <p>23 Q. And who built and operated that</p> <p>24 proprietary ad server?</p> <p>25 A. The New York Times resources and</p> |

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| <p style="text-align: right;">Page 146</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 MS. MORGAN: Objection to form.</p> <p>3 A. Sorry. Can you clarify the</p> <p>4 question?</p> <p>5 Q. Sure.</p> <p>6 When The New York Times switched</p> <p>7 from using its proprietary publisher ad</p> <p>8 server for display to using Google's DFP as</p> <p>9 its publisher ad server for display, what</p> <p>10 impact, if any, did it have on the amount of</p> <p>11 revenue that The New York Times received from</p> <p>12 Google's AdX?</p> <p>13 A. Switching to Google Ad Manager</p> <p>14 allowed us to operate with programmatic</p> <p>15 partners more effectively in the now modern</p> <p>16 space of programmatic, historically</p> <p>17 programmatic was at the beginning of the</p> <p>18 programmatic lifespan, it was a tag-based</p> <p>19 solution which was in efficient and</p> <p>20 ineffective and switching to Google Ad</p> <p>21 Manager allowed us to work with more partners</p> <p>22 more effectively and utilize features that</p> <p>23 were not available within our own proprietary</p> <p>24 ad server.</p> <p>25 Q. When you mentioned a tag-based</p> | <p style="text-align: right;">Page 148</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 MS. MORGAN: Objection to form,</p> <p>3 lacks foundation.</p> <p>4 A. A tagged-based solution is not an</p> <p>5 exchange and it would be -- it would not be</p> <p>6 as effective.</p> <p>7 Q. Why is a tagged-based system for</p> <p>8 display not as effective in your opinion?</p> <p>9 MS. MORGAN: Objection, form.</p> <p>10 MR. BLAISDELL: Object to the form.</p> <p>11 A. The tagged-based solution is not as</p> <p>12 effective because when the specific tag is</p> <p>13 entered into the ad server, it will be called</p> <p>14 by the ad server and it may win, but a bid</p> <p>15 may not be returned or the bid may not be</p> <p>16 won, within the tag, and then it would go</p> <p>17 unfilled and there would be essentially a</p> <p>18 blank space and the publisher would not earn</p> <p>19 revenue on that.</p> <p>20 Q. Let me go back to another question.</p> <p>21 When The New York Times switched</p> <p>22 from using its proprietary publisher ad</p> <p>23 server for display to using Google's</p> <p>24 publisher ad server, what effect, if any, did</p> <p>25 that have on the amount of revenue The New</p> |
| <p style="text-align: right;">Page 147</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 system, what were you referring to?</p> <p>3 A. In the past, early days in</p> <p>4 programmatic, the programmatic partner,</p> <p>5 whether that be a network or a specific</p> <p>6 advertiser that wanted to create a</p> <p>7 programmatic-ish relationship, they would</p> <p>8 send us a creative tag that would be placed</p> <p>9 into the ad server and then submit bids</p> <p>10 within that tag, but that did not mean that</p> <p>11 that programmatic bid would win, and</p> <p>12 ultimately making that impression unfilled</p> <p>13 and not being monetized for the publisher,</p> <p>14 which would then put the revenue at a</p> <p>15 deficit. The modern programmatic space now</p> <p>16 allows for more bids to be submitted, and</p> <p>17 then fill when something chooses not to win</p> <p>18 the bid, or that's not the right audience for</p> <p>19 it, that they did not compete, compete to win</p> <p>20 the CPM.</p> <p>21 MR. BLAISDELL: I'll just object to</p> <p>22 the form of the last question.</p> <p>23 Q. Under tagged-based bidding for</p> <p>24 display in multiple exchanges submit realtime</p> <p>25 bids for the same impression?</p> | <p style="text-align: right;">Page 149</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 York Times got from Google's AdX?</p> <p>3 MS. MORGAN: Objection to form.</p> <p>4 A. I cannot speak to the specific</p> <p>5 numbers off the top of my head, but switching</p> <p>6 to Google Ad Manager allowed us to</p> <p>7 incorporate programmatic more fully into our</p> <p>8 advertising business, and resulted in an</p> <p>9 increase in programmatic revenue and the</p> <p>10 overall revenue to the bottom line.</p> <p>11 Q. Let me turn back to The New York</p> <p>12 Times' proprietary publisher ad server.</p> <p>13 What disadvantages, if any, are</p> <p>14 there to The New York Times using a publisher</p> <p>15 ad server for display that it has built and</p> <p>16 operated itself?</p> <p>17 MR. BLAISDELL: Object to form.</p> <p>18 MS. MORGAN: Objection to the form.</p> <p>19 A. Just to clarify, disadvantages?</p> <p>20 Q. Right.</p> <p>21 A. Maintaining ad technology that is</p> <p>22 homegrown, built internally, whether that be</p> <p>23 an ad server, has several disadvantages.</p> <p>24 One, the operational support and</p> <p>25 infrastructure in capital resources required</p> |

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| <p style="text-align: right;">Page 298</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 will reserve the rest of my time to use</p> <p>3 then.</p> <p>4 MR. VERNON: Thank you</p> <p>5 Mr. Glogovsky, to Demetri and the court</p> <p>6 reporter, Google's counsel and</p> <p>7 everybody. Definitely appreciate it.</p> <p>8 It's been a long day and we thank you</p> <p>9 for your time.</p> <p>10 MS. MORGAN: I second that. Thank</p> <p>11 you. I know it's painful to sit for a</p> <p>12 deposition, especially on a summer</p> <p>13 Friday, and we really appreciate the</p> <p>14 time.</p> <p>15 MR. BLAISDELL: Sorry. Just before</p> <p>16 we go off the record, I will also note</p> <p>17 that The Times also objects to</p> <p>18 Ms. Morgan's attempt to reserve time for</p> <p>19 some subsequent deposition. We've made</p> <p>20 the witness available now for the time</p> <p>21 that the parties were permitted to</p> <p>22 examine him, and it's our position that</p> <p>23 there will be no further deposition for</p> <p>24 no further questioning by either party</p> <p>25 to this case.</p> | <p style="text-align: right;">Page 300</p> <p>1</p> <p>2 STATE OF _____)</p> <p>3) :ss</p> <p>4 COUNTY OF _____)</p> <p>5</p> <p>6</p> <p>7 I, JAMES GLOGOVSKY, the witness</p> <p>8 herein, having read the foregoing</p> <p>9 testimony of the pages of this</p> <p>10 deposition, do hereby certify it to be a</p> <p>11 true and correct transcript, subject to</p> <p>12 the corrections, if any, shown on the</p> <p>13 attached page.</p> <p>14</p> <p>15 _____</p> <p>16 JAMES GLOGOVSKY</p> <p>17</p> <p>18 Sworn and subscribed to before</p> <p>19 me, this day of</p> <p>20 , 2023.</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25 Job No. CS6072653</p> |
| <p style="text-align: right;">Page 299</p> <p>1 GLOGOVSKY - HIGHLY CONFIDENTIAL</p> <p>2 THE VIDEOGRAPHER: Okay to close</p> <p>3 the record?</p> <p>4 MS. MORGAN: Yes, we can close it.</p> <p>5 THE VIDEOGRAPHER: Standby. This</p> <p>6 concludes today's deposition given by</p> <p>7 James Glogovsky. The number of media</p> <p>8 units used is six and will be retained</p> <p>9 by Veritext Legal Solutions. We are</p> <p>10 going off the record at 5:26 p.m.,</p> <p>11 Eastern Daylight Time. Thank you,</p> <p>12 everybody. Have a great weekend. Nice</p> <p>13 working with you.</p> <p>14 (Time noted: 5:26 p.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 301</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW JERSEY)</p> <p>4 : ss.</p> <p>5 COUNTY OF MIDDLESEX)</p> <p>6 I, Jennifer Ocampo-Guzman, a</p> <p>7 Certified Realtime Shorthand Reporter and</p> <p>8 Notary Public within and for the State of New</p> <p>9 Jersey, do hereby certify:</p> <p>10 That JAMES GLOGOVSKY, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn, via remote/oral/web</p> <p>13 videoconference, and that such deposition is</p> <p>14 a true record of the testimony given by the</p> <p>15 witness.</p> <p>16 I further certify that I am not</p> <p>17 related to any of the parties to this action</p> <p>18 by blood or marriage, and that I am in no</p> <p>19 way interested in the outcome of this</p> <p>20 matter.</p> <p>21 IN WITNESS WHEREOF, I have</p> <p>22 hereunto set my hand this 27th day of August</p> <p>23 2023.</p> <p>24</p> <p>25 <i>J. Ocampo-Guzman</i> JENNIFER OCAMPO-GUZMAN, CRR, CLR</p> |